

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
Southern Division**

In re:

SHOOK & FLETCHER INSULATION CO.

Debtor-in-Possession.

Case No. 02-02771
Chapter 11

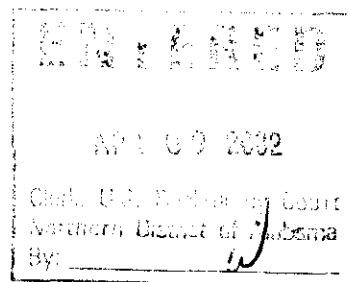
**INTERIM ORDER AUTHORIZING USE OF
CASH COLLATERAL AND AUTHORIZING SUBORDINATED
SECURED CREDIT FROM SHOOK & FLETCHER SUPPLY CO.**

Upon the motion of the above-captioned debtor-in-possession (the "Debtor") for entry of an interim order authorizing the Debtor to use cash collateral and obtain subordinated secured credit from Shook & Fletcher Supply Co. (the "Motion"), and it appearing that the interim relief requested in the Motion is necessary prior to a final hearing on the Motion and is in the best interests of the Debtor's estate, its creditors and other parties in interest; and after due deliberation and cause appearing therefor,

The Court hereby finds:

A. The Court has jurisdiction over this case, and the parties and property affected by this Motion, pursuant to 22 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this case and this Motion is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. On the Petition Date⁵, the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code, and is continuing to operate its business as a debtor-in-



possession pursuant to 11 U.S.C. §§ 1107 and 1108.

C. Pursuant to 11 U.S.C. §§ 102(1) and 364(c) and Bankruptcy Rules 2002 and 4001, the Debtor has provided due and sufficient notice of the preliminary hearing on the Motion and its request for interim relief set forth in the Motion, and no further notice of the request for the relief granted in this Order is required. Such notice is appropriate, adequate and proper under the circumstances of this case as set forth herein, in the Motion and as presented to the Court.

D. In order to continue the ordinary course of operations of the business of the Debtor, it is necessary for the Debtor to use cash collateral and to borrow money and otherwise obtain secured credit from Supply to provide working capital, in addition to that provided by SouthTrust.

E. The Debtor is unable to obtain working capital financing allowable under 11 U.S.C. § 503(b)(1) as an administrative expense pursuant to 11 U.S.C. § 364(a) or 364(b). After considering all the alternatives, the Debtor has concluded, in the exercise of its reasonable business judgment, and has demonstrated to the Court that the DIP Financing represents the best working capital financing available under the circumstances.

F. Good cause has been shown for the immediate entry of this Order. Among other things, the ability of the Debtor to finance its operations and the availability of interim financing pursuant to this Order and the DIP Financing is vital. The preservation and maintenance of the going-concern value of the Debtor is important to the Debtor's successful reorganization pursuant to the provisions of Chapter 11 of the Bankruptcy Code and the Debtor's pre-packaged Plan. The terms of the borrowing authorized hereby are fair under the circumstances. Entry of this Order will be in the best interests of the Debtor, its estate and its creditors.

⁵ Capitalized terms used in this Order and not defined shall have the same meanings as in the

G. Supply's interests in its collateral will be adequately protected in accordance with the terms of this Order and the DIP Financing.

Accordingly, it is hereby ORDERED, as follows:

1. The Debtor's Motion as it relates to interim approval of the DIP Financing shall be, and it hereby is, approved.

2. Good and sufficient notice of the Debtor's request for interim approval of the DIP Financing and the hearing thereon has been provided in accordance with, inter alia, 11 U.S.C. §§ 102(l) and 364(c) and Bankruptcy Rules 2002 and 4001, and any requirement for other and further notice shall be, and it hereby is, dispensed with and waived.

3. The relief granted by this Court pursuant to this Order is necessary to avoid immediate and irreparable harm to the Debtor's estate pending a final hearing on the Motion.

4. An immediate need exists for the Debtor to use cash collateral and to obtain cash advances in order to continue the ordinary course operation of its business.

5. The Debtor is unable to obtain cash advances as unsecured credit allowable under 11 U.S.C. § 503(b)(1). Without the availability of the DIP Financing, the Debtor's ability to preserve the going-concern value of its business will be quickly eroded. The preservation and maintenance of the going-concern value of the Debtor is important to the successful reorganization of the Debtor pursuant to the provisions of Chapter 11 of the Bankruptcy Code and the Debtor's pre-packaged Plan.

6. As set forth in the Motion and based upon the record of these proceedings, the Court finds that the terms of the interim financing requested in the Motion have been negotiated in good faith between the Debtor and Supply and any credit extended by Supply pursuant to the

Motion.

terms of this Order shall be, and it hereby is, deemed to have been extended in good faith (as that term is used in 11 U.S.C. § 364(e)).

7. The Debtor will have the ability to use cash collateral and to receive post-petition loans and/or advances and credit and will thereby benefit from the DIP Financing authorized by this Order.

8. The Debtor is immediately authorized to borrow or obtain cash advances up to the aggregate principal amount of \$2,400,000 outstanding at any one time pursuant to the terms of the DIP Loan Agreement, which authorization is without prejudice to the Debtor's request for authorization at the final hearing on the Motion to borrow funds in such amounts as are permissible under the DIP Loan Agreement, which DIP Loan Agreement is hereby approved.

9. The Debtor and Supply are authorized and directed to do and perform all actions, to make, execute and deliver all instruments and documents (including, without limitation, the execution of the DIP Loan Agreement) and to pay all amounts which may be required or necessary for the Debtor's performance under the terms of this Order, the DIP Loan Agreement and the interim financing hereby approved.

10. All of the Debtor's post-petition obligations to Supply for indebtedness arising in respect of this interim approval of the DIP Facility are hereby authorized and granted superpriority administrative expense status, in accordance with 11 U.S.C. § 364(c)(1), over any and all administrative expenses of the Debtor, whether heretofore or hereafter incurred, of the kind specified in 11 U.S.C. §§ 105, 326, 328, 503(b), 506(c), 507(a), 507(b) or 726, except for the claims of SouthTrust. No other claim (other than the claims of SouthTrust), having a priority senior or pari passu to that granted to Supply in this Order, shall be granted while any portion of the DIP Financing remains outstanding.

11. Liens and security interests granted hereunder to Supply in accordance with the DIP Loan Agreement shall not be subordinated to or pari passu with any other lien or security interest under 11 U.S.C. § 364(d) or otherwise, except that in all events such liens and security interests shall be subordinate to those of SouthTrust.

12. (a) The liens and security interests in favor of the Supply as described herein and in the DIP Loan Agreement shall be deemed valid, binding, enforceable and perfected upon entry of this Order;

(b) Supply shall not be required to file any financing statements, notice of lien or similar instruments in any jurisdiction or filing office, or to take possession of any assets, or to take any other action in order to validate or perfect the liens and security interests granted by or pursuant to this Order or pursuant to the DIP Loan Agreement;

(c) Should Supply, in its sole discretion, from time to time, choose to file such financing statements, notices of lien or similar instruments, take possession of any collateral securing the indebtedness hereby authorized, or take any other action to validate or perfect any such security interest or lien, all such documents shall be deemed to have been filed or recorded at the time and on the date of entry of this Order; and

(d) A certified photocopy of this Order may, in the discretion of Supply, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, notices of lien or similar instruments, and all filing offices are hereby directed to accept such certified copy of this Order for filing and recording.

13. The automatic stay provided under Section 362(d) of the Bankruptcy Code is hereby modified to the extent necessary to effectuate the provisions of the DIP Loan Agreement. In particular, Supply is permitted to receive and apply the payments made by the Debtor, in

accordance with the terms and provisions of the DIP Loan Agreement. Further, Supply is permitted to exercise all of its contractual, legal and equitable rights in and to the Supply Pre-petition Collateral, without further order or notice, in the event that (a) Supply files a duly executed affidavit with the Court attesting to the occurrence of an Event of Default under (and as defined in) the DIP Loan Agreement and serves a copy of such filing and affidavit on the Debtor, its counsel, and such others as are entitled to notice under existing orders of the Court, by hand delivery or facsimile, and (b) the Debtor fails to file with the Court, within five (5) business days of Supply's filing of its affidavit, an affidavit refuting that an Event of Default has occurred under the DIP Loan Agreement. If the Debtor does file an affidavit refuting that an Event of Default has occurred under the DIP Loan Agreement, the Debtor shall serve a copy of such filing and affidavit on Supply, its counsel, and such others as are entitled to notice under existing orders of the Court, by hand delivery or facsimile.

14. The provisions of this Order shall be binding upon and inure to the benefit of the Supply and the Debtor and their respective successors and assigns (including, without limitation, any trustee or other fiduciary hereafter appointed for the Debtor or with respect to the Debtor's property).

15. The Debtor shall, within two (2) business days of the entry of the Order, mail copies of this Order to (a) its twenty (20) largest unsecured creditors, (b) the parties on the Debtor's proposed Service List, (c) any other party which has as of the date hereof, filed with the Clerk of the Court and served upon counsel for the Debtor a request for notices in this case; and (d) a committee of unsecured creditors, and its counsel, if appointed. Any other further obligation for notice of the relief granted herein be, and hereby is, dispensed with and waived.

16. The provisions of this Order shall be immediately effective upon entry of this

Order by the Court and any actions taken pursuant hereto shall survive entry of and shall govern with respect to any conflict with, any Order which may be entered confirming any plan of reorganization or which may be entered converting this case. The terms and provisions of this Order, as well as the priority of Supply's claims, and all rights of Supply and obligations of the Debtor created or arising pursuant hereto or the DIP Loan Agreement, shall continue in the Debtor's Chapter 11 case and in any superseding case under the Bankruptcy Code, and such claims, lien and security interest shall maintain their priority as provided by the Order until satisfied and discharged in accordance with the terms of the DIP Loan Agreement.

17. Consistent with 11 U.S.C. § 364(e), if any or all of the provisions of this Order are hereafter modified, vacated or stayed; such stay, modification or vacation shall not affect the validity of any obligation, indebtedness, liability, security interest or lien granted or incurred by the Debtor to Supply prior to the effective date of such stay, modification or vacation, or the validity and enforceability of any security interest, lien, priority or right authorized or created hereby pursuant to the documents; and any indebtedness, obligation or liability incurred by the Debtor to Supply prior to the effective date of such stay, modification or vacation shall be governed in all respects by the provisions of this Order, and Supply shall be entitled to all the rights, remedies privileges and benefits, including the priority, security interest and lien granted herein and pursuant to the DIP Loan Agreement, with respect to any such indebtedness, obligation or liability. All advances under the DIP Loan Agreement are made in reliance upon this Order, and, therefore, the indebtedness evidenced by such advances prior to the effective date of any stay, modification or vacation of this Order cannot (i) be subordinated, (ii) lose its superpriority claim status, or (iii) be deprived of the benefit of the status of the lien granted to Supply under this Order or the DIP Loan Agreement, as a result of any subsequent order in the

Debtor's case, or any superceding case.

18. To the extent any of the terms and conditions of the DIP Loan Agreement are in conflict with the terms and conditions of this Order, the provisions and intent of the DIP Loan Agreement shall control.

19. The final hearing on this Motion, pursuant to Bankruptcy Rule 4001, shall be held on MAY 1st, 2002 at 9:00 A.m. in Courtroom 4, United States Bankruptcy Court for the Northern District of Alabama, United States Courthouse, Birmingham, Alabama.

20. Service of this Order and the Motion by the Debtor upon the parties identified in paragraph 15 above on or before APRIL 9th, 2002, shall constitute good and sufficient notice of the final hearing on the Motion.

21. Objections, if any, to the relief sought in the Motion shall be in writing, shall set forth with the particularity the grounds for such objections or other statement of position, shall be filed with the Clerk of the Bankruptcy Court, and served upon (a) counsel for the Debtor, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, D.C. 20007, Attention: Roger Frankel and Richard H. Wyron, and Lange Simpson Robinson & Somerville, LLP, 2100 3rd Avenue, North, Suite 1100, Birmingham, AL 35203, Attention: Richard P. Carmody, and (b) counsel for Supply and the other parties on the Service List proposed by the Debtor, so that they are actually received by such parties on or before 4:30 P.m., Central Time, on APRIL 26th, 2002.

22. The Clerk of Court is hereby directed to forthwith enter this order on the docket of this Court maintained with regard to this case.

Dated: April 9th, 2002


UNITED STATES BANKRUPTCY JUDGE